

REMARKS

Claims 1-9 are pending. Claim 10 has been canceled without prejudice or disclaimer.

No new subject matter has been added to the application.

The drawings were objected to and have been amended to overcome the objections.

Attached is a Letter to the Office Drafts person with REPLACEMENT SHEETS and amended drawings of Figures 1 and 2.

Claims 5-7 were rejected under 35 U.S.C. §112, second paragraph. This rejection is respectfully traversed in view of the amended claims.

Claims 1, 2, 4, 5, 8 and 9 were rejected under 35 U.S.C. §102(b) over German Publication 19936653 to Fleck. This rejection is respectfully traversed as follows.

The 102 Rejection

In order to sustain a §102 rejection of independent claim 1, each and every feature of the claim must be taught by the reference.

Comparison of Claim 1 with Fleck

- Claim 1 recites an apparatus for supporting articles of various sizes and shapes. In contrast, Fleck discloses only supporting cylindrical containers (stated as USE in the Derwent English Abstract).
- Claim 1 recites a platform having "a planar top surface for engaging the one or more articles" whereas Fleck *teaches against* the current invention by *requiring* that the top surface of the platform includes a wedge pair 16 and 17 with sloped surfaces 18 (see Figs. 3 and 9) to hold the cylindrical container in place so that it won't roll (stated as ADVANTAGE in the Derwent English Abstract).

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- Claim 1 recites a platform having "a planar bottom surface parallel to the top surface for engaging the vehicle surface", whereas Fleck again *teaches away* from the current invention by disclosing a platform having a bottom surface that includes knobs or feet 21 so that *the bottom surface of the platform does not engage the vehicle surface*. Rather, it is the knobs or feet 21 that protrude from the main body 4 that engage the vehicle surface (see Fig. 3).
- Claim 1 recites "a plurality of bearing members arranged in succession to enable adjustment". In contrast, Fleck discloses a single bearing member 24 between each pair of slots 6 (see Fig. 2), so there is no mechanism or functionality to enable adjustment (see Fig. 1).
- Claim 1 recites that the straps do not engage the vehicle surface, "*...for preventing the straps from engaging the vehicle surface.*", whereas Fleck *teaches away* from the invention by disclosing that the safety belts pass through the slots in the boot sides, and their free ends are locked in a space between boot lid 15 (trunk door) and neighboring body part 15 (rear edge of the vehicle (see Derwent Abstract and Fig. 1).

In view of the above arguments, Applicants contend that the above §102 rejection is traversed and independent claim 1, and all claims dependent thereon, are patentable over Fleck.

The 103 Rejection

Claims 1-4, 8 and 10 were rejected under 35 U.S.C. §103 over U.S. Patent no. 4,487,443 to Adamick in view of U.S. Patent no. 5,131,576 to Turnipseed. This rejection is respectfully traversed as follows.

In determining a prima facie case for obviousness under 35 U.S.C. §103, it is necessary to show that the combination of prior art teachings is proper, and that those teachings are sufficient to *suggest* making the claimed modifications to one of ordinary skill in the art.

Comparison of Claim 1 with Adamick and Turnipseed

- Claim 1 recites an apparatus for supporting articles on a vehicle surface for transport with a *mechanized vehicle*. In contrast, both references are directed towards a backpack or tote for transport by a person. Moreover, Turnipseed discloses a support surface arched in the shape of a person's back (Figs. 3, 5, 7). Hence, neither reference is a proper reference for combination against the current invention. Even if one reference was considered as proper, the other reference does not overcome the shortcomings noted above.

- Claim 1 recites a platform having "a planar bottom surface parallel to the top surface for engaging the vehicle surface", whereas Adamick discloses a handle located above the articles (Fig. 3) or a side surface 38 in Fig. 2 for engaging the vehicle (a person's back). Turnipseed also only describes or suggests engaging the vehicle (person) by a side surface 12 (Fig. 3), so Turnipseed does not overcome the shortcoming of Adamick.

- Claim 1 recites that the straps do not engage the vehicle surface, "*...for preventing the straps from engaging the vehicle surface.*". Turnipseed *teaches away* from the invention by illustrating in Figs. 5 and 6 that the straps come into contact with the vehicle (person).

In view of the above arguments, Applicants contend that the combination of Adamick and Turnipseed is improper. Even if the references were improperly combined, the combination would not result in the invention as claimed.

The prior art made of record and not relied upon has been reviewed but is not considered material to the patentability of the invention.

No fees are believed to be due with this response.

It should be noted that the above arguments are directed towards certain patentable distinctions between the claims and the prior art cited. However, the patentable distinctions between the pending claims and the prior art cited are not necessarily limited to those discussed above.

In view of the foregoing remarks and amendments, it is respectfully submitted that each rejection of the Office Action has been addressed and overcome so that this application is now in condition for allowance. The Examiner is respectfully requested to reconsider the application, withdraw the rejections and/or objections, and pass the application to issue. Should questions arise during examination, the Examiner is welcome to contact the applicant as listed below.

Respectfully submitted,



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FACSIMILE CERTIFICATION

I hereby certify that this correspondence is being sent via facsimile to Primary Examiner Anita M. King at (703) 872-9306 at the United States Patent and Trademark Office on February 9, 2005.


Michael G. Vieira

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